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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,152	03/05/2002	Simon J. Porter	H0003706 (4760)	5937
128	7590	04/21/2004	EXAMINER	
HONEYWELL INTERNATIONAL INC. 101 COLUMBIA ROAD P O BOX 2245 MORRISTOWN, NJ 07962-2245			PATTERSON, MARC A	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/091,152	PORTER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marc A Patterson	1772	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-37 and 61-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-37 and 61-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 second paragraph rejections of Claims 29 – 37, of record on page 2 of the previous Action, are withdrawn.

The 35 U.S.C. 103(a) rejection of Claims 29, 31 – 35, 37, 62 – 64 and 66 as being unpatentable over Walton et al (U.S. Patent No. 5,591,390) in view of Japanese Patent No. 10110096, of record on page 2 of the previous Action, is withdrawn.

### NEW REJECTIONS

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 29, 32 – 35, 37, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096.

With regard to Claims 29, 33, 35, 37 and Claim 64, Hayes disclose a multilayered film (column 10, lines 49 – 50) for packaging (column 11, lines 5 – 6) comprising first and second outer layers (column 10, lines 52), which are sealing layers (column 10, lines 37 and 41); and multiple substrate layers (one substrate layer, and at least one or more additional substrate layers; column 1, lines 66 – 67) between the two outer layers (column 10, lines 51 – 52); the sealing layers are polyethylene layers (column 7, line 19); the sealing layers are also sealant layers

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(column 2, lines 38 – 40), thus the film is a sealant film; each substrate layer of the film comprises an antiblocking agent (column 10, lines 11 – 12) comprising nylon and ethylene vinyl alcohol, (column 8, lines 22 – 25), and a layer of silicone oil is included on each layer of the film (column 8, lines 40 – 41); each layer of the film also contains an antifog composition (antifogging agent; column 16, lines 13 – 15); the sealant layer is used to seal the multilayered film to another multilayered film (the film is sealed to itself; column 2, lines 40 – 41); Hayes therefore discloses a nylon film, having first and second surfaces, because a multilayered film is disclosed which comprises a layer which comprises nylon; Hayes also discloses a layer of silicone oil a first surface of the nylon film, because a layer of silicone oil is included on each layer of the film; the nylon film is also a sealant film because it comprises sealant layers; because the film is sealed to another sealant film by the sealant layers of the films, and the sealant layers comprise polyethylene layers containing an antifog composition, a sealant film is on the second surface of the nylon film, which sealant film comprises a polyethylene layer having first and second surfaces, which polyethylene layer contains an antifog composition; because the sealant film comprises at least three substrate layers each of which comprises nylon and ethylene vinyl alcohol, Hayes also discloses a first nylon layer on the second surface of the polyethylene layer, an ethylene vinyl alcohol layer on the first nylon layer, and a second nylon layer on the first ethylene vinyl alcohol layer; furthermore, at least one of the nylon layers is attached to the second surface of the nylon film, by the sealant layers. Hayes fails to disclose a nylon which comprises nylon 6.

Japanese Patent No. 10110096 teaches the use of nylon 6 in the making of a packaging film for the purpose of obtaining a film having improved mechanical strength (English Abstract;

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Advantage). Therefore, one of ordinary skill in the art would have recognized the utility of providing for the nylon 6 of Japanese Patent No. 10110096 in Walton et al, which is a packaging film, for the purpose of obtaining a desired mechanical strength of the end product as taught by Japanese Patent No. 10110096.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for the nylon 6 of Japanese Patent No. 10110096 in any of the nylon layers of Hayes in order to obtain a film having improved mechanical strength as taught by Japanese Patent No. 10110096.

With regard to Claim 32, the silicone oil disclosed by Hayes comprises polydimethylsiloxane (column 8, line 44).

With regard to Claim 34, the polyethylene disclosed by Hayes comprises linear low density polyethylene (column 7, line 22).

4. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096 and further in view of Mueller et al (U.S. Patent No. 4,475,241).

Hayes and Japanese Patent No. 10110096 discloses a packaging material comprising nylon in contact with other layers as discussed above. Hayes and Japanese Patent No. 10110096 fails to disclose a nylon surface which is corona treated.

Mueller et al teach the corona treatment of a nylon layer in contact with other layers (column 5, lines 27 – 30) in a packaging film (column 5, lines 35 – 36) for the purpose of obtaining good wetting, which is critical to good adhesion (column 4, lines 63 – 65). Therefore,

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one of ordinary skill in the art would have recognized the advantage of providing for the corona treatment of Mueller et al in Hayes and Japanese Patent No. 10110096, which is a packaging material comprising a nylon surface in contact with other layers, depending on the desired adhesion of the layers of the end product as taught by Mueller et al .

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for the corona treatment of Mueller et al in Hayes and Japanese Patent No. 10110096 in order to obtaining good wetting of the end layers of the end product as taught by Mueller et al.

5. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096 and further in view of Balloni et al (U.S. Patent No. 4,961,992).

Hayes and Japanese Patent No. 10110096 disclose a packaging material comprising a coating of polydimethylsiloxane as discussed above. Hayes and Japanese Patent No. 10110096 fails to disclose a silicone oil which comprises a surface – active lubricant.

Balloni et al teach that it well known in the art to use a polydimethylsiloxane (column 1, line 38) which reduces the coefficient of friction of a packaging material (column 1, lines 27 – 31), therefore as a lubricant, for the purpose of obtaining a packaging material which has excellent moisture barrier properties and is usable in automatic packaging machines (column 1, lines 7 – 13). Therefore, one of ordinary skill in the art would have recognized the utility of providing for the polydimethylsiloxane taught by Balloni et al in Hayes and Japanese Patent No.

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10110096, which is a packaging material, depending on the desired moisture barrier properties and usability in automatic packaging machines of the final product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for the polydimethylsiloxane taught by Balloni et al in Hayes and Japanese Patent No. 10110096 in order to obtain a packaging material which has excellent moisture barrier properties and is usable in automatic packaging machines as taught by Balloni et al.

6. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096 and further in view of Toney et al (U.S. Patent No. 5,520,764).

Hayes and Japanese Patent No. 10110096 disclose a packaging material comprising an antifog composition in a polyethylene layer as discussed above. Hayes and Japanese Patent No. 10110096 fail to disclose a packaging material comprising a surface coating of an antifog composition. However, Toney et al teach that an antifog composition which is comprised in a polyolefin layer (antifogging agent is blended into the layer; column 3, lines 10 – 11) migrates to the surface to create the antifog effect (column 3, lines 60 – 62); the layer therefore comprises a surface coating of the antifog composition; the property of having a surface coating of an antifog composition is therefore inherent to Hayes and Japanese Patent No. 10110096, as it comprises a polyethylene layer which comprises an antifog composition.

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7. Claims 61 – 63 and 65 – 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096 and further in view of Hofmeister et al (U.S. Patent No. 6,500,559).

Hayes and Japanese Patent No. 10110096 disclose a packaging film comprising first and second nylon layers which comprise nylon 6 as discussed above. With regard to Claims 61 – 62 and 65, Walton et al fail to disclose a nylon film comprising nylon 666.

Hofmeister teaches the use of nylon 666 (column 29, line 4) as the nylon layer in a packaging film (column 2, lines 37 – 38) for the purpose of obtaining a film having good tensile strength (column 1, lines 55 – 56). Therefore, one of ordinary skill in the art would have recognized the utility of providing for the nylon 666 of Hofmeister et al in Hayes and Japanese Patent No. 10110096, which is a packaging film, depending on the tensile strength of the end product as taught by Hofmeister et al.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for the nylon 666 of Hofmeister et al in any of the nylon layers of Hayes and Japanese Patent No. 10110096 in order to obtain a film having good tensile strength as taught by Hofmeister et al.

With regard to Claim 63, as discussed above, the second nylon layer disclosed by Hayes and Japanese Patent No. 10110096 is attached to the second surface of the nylon film via intermediate adhesive (sealant layers; column 2, lines 38 – 39 of Hayes).

With regard to Claim 66, Hayes and Japanese Patent No. 10110096 disclose a silicone oil which is a food grade silicone oil (the packaging is a food packaging; column 1, lines 33 – 34 of Hayes).



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With regard to Claim 67, Hofmeister et al fail to teach a packaging film which has an oxygen transmission rate of about 0.5 cc/100 in<sup>2</sup>/day at 65% relative humidity at 20 degrees Celsius. However, Hofmeister et al teach a packaging film having an oxygen transmission rate of 6 cc/m<sup>2</sup>/day at normal humidity conditions (column 15, lines 54 – 56) and teaches that the oxygen barrier properties are essential in end uses where the end product is susceptible to oxidative degradation (column 1, lines 66 – 67). Therefore, one of ordinary skill in the art would have recognized the utility of varying the oxygen transmission rate of the film to obtain a desired resistance to oxidative degradation. Therefore, the resistance to oxidative degradation would be readily determined through routine optimization of oxygen transmission rate by one having ordinary skill in the art depending on the desired end use of the product.

It therefore would be obvious for one of ordinary skill in the art to vary the oxygen transmission rate in order to obtain a desired resistance to oxidative degradation, since the resistance to oxidative degradation would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Hofmeister et al.

#### ANSWERS TO APPLICANT'S ARGUMENTS

8. Applicant's arguments regarding the 35 U.S.C. 112 second paragraph rejections of Claims 29 – 37, of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejections have therefore been withdrawn.

Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 29, 31 – 35, 37, 62 – 64 and 66 as being unpatentable over Walton et al (U.S. Patent No. 5,591,390) in view

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of Japanese Patent No. 10110096, of record in the previous Action, have been considered and have been found to be persuasive. The rejection is therefore withdrawn. The new 35 U.S.C. 103(a) rejection of Claims 29, 32 – 35, 37, and 64 as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096, 35 U.S.C. 103(a) rejection of Claim 30 as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096 and further in view of Mueller et al (U.S. Patent No. 4,475,241), 35 U.S.C. 103(a) rejection of Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096 and further in view of Balloni et al (U.S. Patent No. 4,961,992) as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096 and further in view of Balloni et al (U.S. Patent No. 4,961,922), 35 U.S.C. 103(a) rejection of Claim 36 as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096 and further in view of Toney et al (U.S. Patent No. 5,520,764) and 35 U.S.C. 103(a) rejection of Claims 61 – 63 and 65 – 67 as being unpatentable over Hayes (U.S. Patent No. 6,210,764 B1) in view of Japanese Patent No. 10110096 and further in view of Hofmeister et al (U.S. Patent No. 6,500,559) above are directed to amended Claims 29 – 37 and newly submitted Claims 61 – 67.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**


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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### *Conclusion*

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (571) 272 - 1497. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (571) 272 - 1498. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

*Marc Patterson*  
Art Unit 1772  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

4/15/04